DG 01-181

ENERGYNORTH NATURAL GAS, INC. D/B/A KEYSPAN ENERGY DELIVERY NEW ENGLAND

2001/2002 Revised Winter Cost of Gas

Order Approving Revised Cost of Gas Rate, Fixed Price Option Rate and Local Distribution Adjustment Clause

O R D E R N O. 23,882

December 31, 2001

APPEARANCES: McLane, Graf, Raulerson and Middleton by Steven V. Camerino, Esq. and Richard Visconti, Esq. on behalf of EnergyNorth Natural Gas Inc. d/b/a KeySpan Energy Delivery New England; Office of Consumer Advocate by Kenneth E. Traum on behalf of residential utility consumers; and Marcia Thunberg, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On September 17, 2001, EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan), a public utility engaged in the business of distributing natural gas in 29 cities and towns in southern and central New Hampshire and the City of Berlin in northern New Hampshire, filed with the New Hampshire Public Utilities Commission (Commission) its Cost of Gas (COG) for the 2001/2002 winter period. Accompanying its COG filing was a Motion for Protective Order and Confidential Treatment, which was granted September 21, 2001 by Order No. 23,781. KeySpan’s filing included the direct testimony and supporting attachments of A. Leo Silvestrini, Director of Rates and Regulatory Affairs, and Theodore E. Poe, Jr., Energy Planning Manager.

On September 20, 2001, the Commission issued an Order of Notice setting the date of the hearing for October 19, 2001.

On September 24, 2001, the Office of the Consumer Advocate (OCA) filed a Notice of Intent to Participate in this docket on behalf of residential utility consumers pursuant to the powers and duties granted to the OCA under RSA 363:28,II. There were no other intervenors in this docket.

On September 28, 2001, KeySpan filed its proposed Fixed Price Option (FPO) rate for the 2001/2002 Winter Period and supporting schedules. On October 9, 2001, KeySpan filed revised COG and FPO rates for the 2001/2002 Winter Period.

On October 18, 2001, Staff filed the Joint Direct Testimony of Stephen P. Frink, Assistant Finance Director, and Stuart A. Hodgdon, Chief Auditor, recommending approval of the proposed COG and FPO rates and Local Distribution Adjustment Clause (LDAC) on a temporary basis pending a complete refiling, extensive review, and Commission hearing.

By Order dated October 26, 2001, the Commission approved KeySpan’s proposed 2001/2002 Winter COG, FPO and LDAC per therm rates as temporary rates only and set a procedural schedule. See, Order No. 23,828. The procedural schedule provided for a technical session, filing of testimony and schedules, and a hearing to be held December 21, 2001.

On November 30, 2001, KeySpan filed the testimony of A. Leo Silvestrini, Director of Rates and Regulatory Affairs, and Theodore E. Poe, Jr., Energy Planning Manager.

On December 19, 2001, KeySpan filed a letter that described an error that occurred in an October mailing to Commercial and Industrial (C&I) customers announcing the availability of the FPO program and FPO rates, explained the resulting problems, proposed how to resolve the problems, and requested that the Commission issue a decision on this matter from the bench at the hearing.

On December 20, 2001, Staff filed the testimony of Stephen P. Frink, Assistant Director of the Gas and Water Division.

On December 21, 2001, from the bench the Commission approved a settlement agreement reached between KeySpan, OCA and Staff resolving the issues arising from the October FPO mailing error to C&I customers.

II. POSITIONS OF THE PARTIES AND STAFF

A. <u>KeySpan</u>

Mr. Poe described the transportation and supply portfolio that KeySpan holds to serve its natural gas customers. Mr. Silvestrini testified as to the steps KeySpan has undertaken to address filing concerns; aspects of the revised filing; the proposed revised COG and LDAC rates; and the problems arising from the FPO mailing error and settlement agreement addressing those problems.

Mr. Silvestrini stated KeySpan had developed a list of regular reporting requirements; assigned individual responsibilities for each requirement; assigned one person overall responsibility; reviewed and changed the accounting processes to provide better checks and balances and ensure the integrity of the accounting data; revised the COG filing format to make for easier review and provide more detail and supporting documentation; and implemented training programs on regulatory and cost of gas accounting. Mr. Silvestrini further stated he personally intended to spend more time training, supervising and managing personnel resources and workflow.

Mr. Silvestrini compared the COG rate calculation presented in the most recent filing with the filing made in October and on which the temporary rates were based. He stated that the revised COG rates were $0.0375 per therm higher due primarily to three factors: i) higher commodity costs since the original filing and the under subscription of the FPO program, as the gas supplies purchased to support the FPO program and not subscribed for were purchased at a higher price than is currently being projected for the remainder of the winter period and those supplies have now been allocated to the COG; ii) increase in the projected cost of supplemental gas supplies since the filing; and, iii) an increase in the prior period under collection due to additional adjustments to the 2000/2001 Winter Period reconciliation.

KeySpan proposed a $0.0010 per therm Conservation Charge for Residential Heating customers to recover lost revenues that resulted from discontinued Demand Side Management (DSM) programs and an under recovered balance with applicable interest. KeySpan had not proposed this surcharge in its initial filing due to a failure to locate the schedule format, and time constraints.

Mr. Silvestrini testified that the enrollment letter for the 2001/2002 Winter FPO program quoted the C&I customers the wrong rates. High Winter Use C&I customers received notice of the Low Winter Use C&I rate ($0.4579 per therm) while the Low Winter Use C&I customers received notice of the High Winter Use C&I rate ($0.5238 per therm). Despite the enrollment message error, the Company actually billed its customers correctly. In other words, all C&I customers were billed the appropriate approved rates for their usage classes, but were not billed at the rates that they were mistakenly quoted at the time of enrollment. Residential customers were not affected by the mailing error. Residential customers were notified of the appropriate FPO rate and have been billed correctly.

KeySpan, OCA and Staff reached a settlement agreement on how best to address the C&I FPO enrollment letter error, which agreement was described by Mr. Silvestrini. He also explained that a letter notifying the affected customers of the error and options available to them would be mailed out immediately if the Commission were able to render a decision from the bench; otherwise, the mailing would be delayed a minimum of four days as the mailing house would be closed until after Christmas.

The terms of the settlement agreement are as follows:

1. High Winter Use C&I FPO Customers

High Winter Use C&I FPO customers will be credited the difference between the quoted FPO enrollment rate of $0.4579 per therm and the Commission approved, and billed, FPO rate of $0.5238 per therm for usage during November and December 2001. Customers will be notified of the error and provided the opportunity to either continue on the FPO program at the correct rate or leave the program and pay the COG rate for the remainder of the winter period, January 1, 2002 through April 30, 2002. Customers desiring to exit the FPO program must notify KeySpan on or before January 12, 2002, and will be charged the COG rate effective January 1, 2002.

2. Low Winter Use C&I Customers

Low Winter Use C&I customers will be informed of the error and FPO customers notified that they are being billed the lower, approved FPO rate. The Low Winter Use C&I COG customers will be notified of the error in October’s quoted FPO rate and provided the opportunity to enroll in the FPO program effective January 1, 2002, at the correct rate for the remainder of the winter period, January 1, 2002 through April 30, 2002. Those customers will be able to enroll through January 12, 2002.

3. Cost Recovery

KeySpan will not seek recovery of the High Winter Use C&I FPO customer credits to reimburse the difference between the FPO rate quoted in October and the approved, and billed, FPO rate for the months of November and December 2001 (estimated at $70,000).

KeySpan will not seek recovery of 50% of the prior period under collection and offsetting margins that should have been included in the calculation of the FPO rates and would have been collected from FPO customers if the rates had been properly calculated and approved, estimated at $58,000.[1] KeySpan will not seek recovery of carrying costs on the remaining 50% of the under

---

[1]Prior period under collection and offsetting margins that should have been included in the FPO rate calculation total $254,148. A rate developed by dividing this amount by 50% of projected sales (projected FPO sales prior to enrollment) would have added $0.0058 per therm to the FPO rate. FPO enrollment volumes total 23% of projected winter sales (approximately 20,000,000 therms). Therefore, the expected recovery from FPO customers would be $116,000 ($0.0058 x 20,000,000). One half would equal $58,000.

collection, estimated at $3,480.[2] The actual amounts for which recovery will not be sought will be determined based on the actual FPO volumes billed and applicable interest rates to be calculated as part of the winter 2001/2002 cost of gas reconciliation.

B. Office of the Consumer Advocate

The OCA supported the settlement agreement, as described by KeySpan, on how best to address the problems arising from KeySpan's miscalculation of the FPO rates and rate errors contained in the C&I 2001/2002 Winter FPO enrollment letters.

C. Staff

Staff witness Stephen P. Frink testified that the most recent KeySpan filing was greatly improved over its earlier 2001/2002 Winter COG filings and addressed most of Staff's concerns regarding the earlier filings. Mr. Frink stated that the Commission Audit Staff had reported no errors in an expanded audit of KeySpan's 2000/2001 Winter COG reconciliation and that the appropriate adjustments had been made to correct the reported prior period under collection.

Mr. Frink testified that KeySpan's gas purchasing policies for the period were consistent with prior years, were

---

[2]One half of the anticipated FPO under recovery, approximately $58,000, will be allowed for recovery, without carrying costs. Carrying costs are estimated to be $3,480 based on a prime rate of 6%.

both prudent and reasonable, and were designed to minimize gas costs while providing reliability and a certain level of rate stability.

Staff identified KeySpan’s failure to calculate the FPO rates in accordance with the approved settlement agreement modifying the 2001/2002 FPO program and noted that the proposed filing did not properly allocate the prior period under collection and margins between the COG and FPO programs. Staff noted that KeySpan’s response to Staff Data Request No. 2-1 calculated the COG rates using the correct allocations and recommended approval of the COG rates set out in that data response.

Staff stated its support for the proposed settlement agreement addressing the issues related to the incorrect calculation of the FPO and COG rates, along with those issues arising from quoting the wrong FPO enrollment rates to C&I customers.

Staff did point out that allowing C&I customers to either exit or enroll in the FPO program at this time could result in a related under collection and create a subsidization of the FPO program by COG customers, if FPO enrollment and/or gas costs were to change significantly. Staff recommended that KeySpan be required to track and report the High Winter Use C&I FPO credits returning the difference between the quoted enrollment rate and the approved rate for November and December, 2002 usage and to report changes in the FPO enrollment resulting from allowing C&I customers the opportunity to exit or enroll at this time. Staff requested that those reports be filed by the end of February 2002.

III. COMMISSION ANALYSIS

Based on careful review of the record in this docket, we will approve the COG rates as calculated and described in KeySpan's Data Response to Staff Data Request No. 2-1, which correctly allocates the prior period under collection to the COG, and will approve implementation of the proposed Residential Conservation Charge to recover lost revenues from discontinued DSM programs. Approval is consistent with prior Commission orders approving those programs and results in rates that are fair and equitable.

We also approve the settlement agreement reached among KeySpan, OCA and Staff that allows High Winter Use C&I FPO customers to either remain in the FPO program at the approved rate or exit the program effective January 1, 2002 and allows Low Winter Use C&I COG customers the opportunity to enroll in the program effective January 1, 2002, following notification of the correct rate.

High Winter Use C&I FPO customers enrolled for a fixed rate well below the approved rate. Those customers may not have enrolled at the approved rate and may wish to exit the program when informed of the approved FPO rate they will be required to pay for the remainder of the winter period. The proposal allows the High Winter Use C&I FPO customers the opportunity to reconsider their decision to enroll based on the correct information while not penalizing them for the two months over which they were unaware of the rate discrepancy, as they will receive a credit for the rate difference. Since KeySpan will not seek recovery of those credits, the under recovery of the underlying gas costs will not be included in the 2001/2002 Winter COG reconciliation and will not be passed through to COG customers in a future COG proceeding.

Low Winter Use C&I COG customers may have enrolled in the 2001/2002 FPO program if quoted the approved rate rather than the significantly higher rate that was erroneously provided.

Those customers will now have the opportunity to reconsider their decision based on the correct information. The COG rate was lower than the approved FPO rate for the first two months and enrollment will be effective January 1, 2002. Therefore, Low Winter Use C&I customers that now enroll in the program would not have missed any savings as a result of not having been enrolled when the program was initially offered.

Staff testified that the prior period under collection, as calculated in the most recent filing, is correct, and that KeySpan's gas purchasing policies were reasonable and prudent. Under normal circumstances, prudently incurred gas costs are fully recoverable through the COG mechanism. Unfortunately, KeySpan’s failure to correctly determine and assign the prior period under collection resulted in the full amount of the under collection being inappropriately included in the COG rates. While the COG rates can be adjusted on a monthly basis and the rates we are approving here reflect the correct charge, the FPO rates do not accurately reflect the prior period under collection that was to have been assigned to the FPO program. To change the FPO rates during the winter period would violate the integrity of the program as FPO customers are promised a fixed rate for the winter period and unless the program is expanded, as was done for this winter, prior period over or under collections are not assigned to the FPO program. With the program expansion this year, a corresponding share of the prior period under collection was to have been allocated to the FPO program on a one-time basis. To carry those costs forward to the next winter period means additional carrying costs and the likelihood of inter-generational subsidies as customers switch between the COG and FPO programs. Although we do not dispute the legitimacy of the gas costs that gave rise to the prior period under collection, it is appropriate that KeySpan forego recovery of a portion of those costs to cover the additional carrying costs that will be incurred as a result of KeySpan’s filing errors and to reduce the risk of inter-generational subsidies. Accordingly, we approve the disallowance of an estimated $61,480, as agreed to by KeySpan, OCA and Staff, in addition to the estimated $70,000 of credits to the High Winter Use C&I FPO customers.

As noted by Staff, there could be a cost shifting between the COG and FPO programs based on reopening FPO enrollment for the C&I customers. Although the risk appears minimal, we direct KeySpan to track the changes in the FPO enrollment and report the results, along with credits paid to the High Winter Use C&I FPO customers, and file a report on the results with the Commission on or before February 28, 2002. If it is determined a cost shift did occur, it will be addressed in KeySpan’s 2002/2003 Winter COG proceeding.

Based upon the foregoing, it is hereby

ORDERED, that KeySpan's 2001/2002 Winter COG and FPO per therm rates for the period January 1, 2002 through April 30, 2002 are APPROVED, effective for service rendered on or after January 1, 2002 as follows:

	Cost of Gas	**Minimum COG**	**Maximum COG**	**Fixed Price Option**
Residential	$0.5214	$0.3917	$0.5875	$0.5141
C&I, low winter use	$0.4645	$0.3489	$0.5233	$0.4579
C&I, high winter use	$0.5313	$0.3991	$0.5986	$0.5238

FURTHER ORDERED, that KeySpan may, without further Commission action, adjust the COG rates upward or downward monthly based on KeySpan's calculation of the projected over or under collection for the period, the minimum and maximum rates as set above; and it is

FURTHER ORDERED, that KeySpan shall provide the Commission with its monthly calculation of the projected over or under calculation, along with the resulting revised COG rates for the subsequent month, not less than five (5) business days prior to the first day of the subsequent month. KeySpan shall include a revised tariff page 49 - Calculation of Firm Sales Cost of Gas Rate and revised rate schedules if KeySpan elects to adjust the COG rates; and it is

FURTHER ORDERED, that the over or under collection shall accrue interest at the Prime Rate reported in the *Wall Street Journal*, to be adjusted each quarter using the rate reported on the first date of the month preceding the first month of the quarter; and it is

FURTHER ORDERED, that KeySpan's proposed 2001/2002 Local Distribution Adjustment Clause per therm rates for the period January 1, 2002 through October 31, 2002, except for the Rate Case Expense Surcharge which is currently in effect and expires on April 30, 2002 and the Gas Restructuring Expense Surcharge which is set at the rate recommended by Staff, are APPROVED effective for service rendered on or after January 1, 2002 as follows:

	Demand Side Mgmt.	Gas Holder Remed.	Envir. Remed.	Gas Restr. Costs	Rate Case Expense	LDAC
Residential Heating	$0.0010	$0.0030	$0.0137		$0.0009	0.0186
Residential Non-heating	$0.0000	$0.0030	$0.0137		$0.0009	0.0176
Small C&I	$0.0000	$0.0030	$0.0137	$0.0020	$0.0027	0.0214
Medium C&I	$0.0000	$0.0030	$0.0137	$0.0020	$0.0027	0.0214
Large C&I	$0.0000	$0.0030	$0.0137	$0.0020	$0.0027	0.0214

FURTHER ORDERED, that KeySpan’s proposed Firm

Transportation Winter COG rate of $0.0032 per therm for the period January 1, 2002 through April 30, 2002, is APPROVED; and it is

FURTHER ORDERED, that the Commission waives N.H. Admin. Rules Puc 1203.05(b) and will allow KeySpan to implement its 2001/2002 Winter COG rates on a service-rendered basis; and it is

FURTHER ORDERED, that KeySpan will not seek recovery of an estimated $131,480 of gas costs in any future COG proceeding, as per the terms of the settlement agreement reached among KeySpan, OCA and Staff as described in KeySpan’s testimony; and it is

FURTHER ORDERED, that KeySpan shall file properly annotated tariff pages in compliance with this Order no later than 15 days from the issuance date of this Order, as required by N.H. Admin. Rules, Puc 1603.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of December, 2001.

Thomas B. Getz Chairman	Susan S. Geiger Commissioner	Nancy Brockway Commissioner

Attested by:

Kimberly Nolin Smith
Assistant Secretary